IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.532 OF 2005

The State of Maharashtra ..Appellant

V/s.

Deepak Pandharinath Gule & Ors. ..Respondents

Mrs.P.H.Kantharia, Addl.Public Prosecutor for the Appellant/State.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 11.02.2005.

PC

. Heard the learned Additional Public Prosecutor for the appellant and perused the Judgment dated 31.03.2004 passed by 16th Ad-hoc Dist. & Sessions Judge, Pune, acquitting the present respondents of the offences under Sections 498-A, 307 read with 34 of IPC.

2. We find that the learned trial Judge extensively considered the evidence of the prosecution witnesses, particularly evidence of PW 1 and PW 3. However, their evidence was not found trustworthy and in our opinion not without reason. From the evidence considered by the trial Judge it transpires that the present respondent (original accused no.1) took the PW 1 to the hospital and got her admitted.

It was he who gave information to the Doctor that the PW 1 had consumed some substance. The accused no.1 made all possible efforts to bring PW 1 to the normal condition after consumption of some substance. The prosecution failed to establish that the substance that was consumed by PW 1 was poisonious. As a matter of fact the C.A. report has not at all been placed by the prosecution.

3. During the course of investigation no poisonious substance was found in the house. The bottle Exh.11 that was seized by PW 2 was not found to have any poison.

4. All in all the prosecution failed to establish beyond reasonable doubt that the accused persons had forced PW 1 to consume the poison.

5. The consideration of the matter by the learned trial Court does not suffer from any legal or factual infirmities. No case for grant of leave is made out.

6. Criminal application for leave to appeal is rejected.

(R.M.LODHA,J)

(R.S.MOHITE,J)